

## MINUTES OF MAY 6, 2013

The regular meeting of the Sussex County Board of Adjustment was held on Monday, May 6, 2013, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members, Ms. Melissa Thibodeau – Zoning Inspector II, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Minutes of April 1, 2013 and the Finding of Facts for April 1, 2013 as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

## PUBLIC HEARINGS

**Case No. 11197 – Colonial East Community, LLC & Colonial East Limited Partnership** – northeast of Route 1 (Coastal Highway) 0.25 miles northwest of Road 276 (Wolf Neck Road) within Colonial East Mobile Home Estates. (Tax Map I.D. 3-34-6.00-335.00 & 335.01)

An application for a variance from the required separation distance between manufactured homes and other structures within a mobile home park and a variance from the permitted lot coverage within a mobile home park requirement.

Ms. Thibodeau presented the case. Steve Class was sworn in to testify about the Application. David Hutt, Esquire, presented the case to the Board on behalf of the Applicant and stated that the Applicant is requesting a variance to reduce the required separation requirement between units from twenty (20) feet to fifteen (15) feet throughout the park and a variance to increase the maximum allowable lot coverage from thirty five percent (35%) to forty five percent (45%) maximum allowable lot coverage for the park; that Mr. Class is an owner of Colonial East Limited Partnership; that the Property is located near Route 1; that the requests are for blanket variances applicable to all lots in the park; that the community was developed in the early 1970's; that the Sussex County Zoning Ordinance in 1970 required lots to be a minimum of 3,000 square feet in size with thirty five percent (35%) maximum allowable lot coverage; that in 1973 the Zoning Ordinance was amended to required lots to be a minimum of 5,000 square-feet in size with forty percent (40%) maximum allowable lot coverage; that the park was developed when the minimum lot size requirement was 3,000 square-feet; that the average lot size in the park is 3,500 square-feet; that the park was created when the average size of a manufactured

home was ten (10) feet by twelve (12) feet; that the average size of manufactured homes is now is sixteen (16) feet by twenty eight (28) feet; that, throughout the park, the original, existing twelve (12) feet wide homes have additions and separation variances from other units; that the proposed variances will eliminate the need for homeowners in Colonial East to appear before the Board; that there have been twenty nine (29) variance applications requesting separation and lot coverage variances; that only three (3) requests were denied: one for lack of representation, one for a unique shed, and one was deemed unnecessary; that manufactured homes are much safer and more energy sufficient and environmentally safe than they were in years past; that the State Fire Marshal requires only a minimum of a ten (10) feet of separation between units and no separation requirement required if an existing fire hydrant system is on site; that the park has recently installed a new fire prevention system throughout the park; that the State Fire Marshal has approved the system; that the uniqueness of the Property is that the park was created prior to the enactment of the current zoning code; that the Property cannot otherwise be developed and many lots would be rendered unusable without the variances; that the variances are necessary to enable reasonable use of the Property; that the variances will not alter the essential character of the neighborhood; that similar blanket variances have been granted by the Board in the past and that Colonial East is similar to those communities which received the blanket variances; and that the variances sought are the minimum variances necessary to afford relief. Mr. Hutt submitted exhibits for the Board for review.

Mr. Class, under oath, confirmed the statements made by Mr. Hutt. Mr. Class testified that he is the park manager; that he will encourage all tenants to comply with the zoning requirements, if approved; that most tenants cannot afford the filing and survey fees required for a variance application; and that there is no desire to change the existing use of the mobile home park.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Workman – yea, Mr. Mills – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the case be **tabled until May 20, 2013**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11198 – Robert Robinson & Barbara Robinson** – southeast of Woodland Circle 300 feet northwest of Marina Drive West, being Lot 35, Block E, Section 1, within Angola By The Bay, south of Road 277 (Angola Road). (Tax Map I.D. 2-34-17.08-126.00)

An application for a variance from the front yard and side yard setback requirements.

Ms. Thibodeau presented the case. Cynthia Baker, Realtor, was sworn in to testify about the Application. Elizbeth Soucek, Esquire, presented the case to the Board on behalf of the Applicants and stated that the Applicants are requesting a variance of 0.40 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and a variance of 0.42 feet from the ten (10) feet side yard setback requirement for an existing patio deck; that the Property is located in Angola by the Bay; that the Applicants purchased the Property in November 1977; that the dwelling was built in 1983; that the Applicants were never aware of the encroachment until a survey was completed for a pending sale of the Property; that the builder is deceased; that the Property is long and narrow making it unique; that the difficulty was not created by the Applicants; that the variances will enable reasonable use of the Property; that the variances are necessary in order to sell the Property; that the dwelling would need to be removed in order to bring the Property into compliance with the Zoning Code; that the variances will not alter the essential character of the neighborhood; that the Property cannot be otherwise developed; that the variances will not be detrimental to the public welfare; that the Homeowners Association approves of the Application; and that the variances are the minimum variances to afford relief. Ms. Soucek submitted affidavits signed by the Applicants. Ms. Baker, under oath, confirmed the statements made by Ms. Soucek.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11198 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape and it has a smaller front yard than rear yard;
2. The variances are necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11199 – Scott Boatman** – north of Route 26, 1.04 miles east of Road 382. (Tax Map I.D. 2-33-11.00-95.00)

An application for a special use exception to retain a manufactured home as a classroom.

Ms. Thibodeau presented the case.

No one appeared on behalf of the Application.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to move the hearing to the end of the public hearings. Motion carried 5 – 0.

At the end of the public hearings, Ms. Thibodeau re-presented the case.

No one appeared on behalf of the Application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be **denied due to lack of representation**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11200 – Danny L. Willey** – north of Route 24 (John J Williams Highway) 735 feet northeast of Road 297 (Mount Joy Road) & Oak Orchard Road Intersection.(Tax Map I.D. 2-34-29.00-263.07)

An application for a special use exception to place a tent as a temporary facility for seasonal use over a five (5) year period.

Ms. Thibodeau presented the case. Danny Willey was sworn in and testified requesting a special use exception to place a tent as a temporary sales facility for seasonal use over a five (5) year period. Mr. Willey testified that the tent will be used for flower sales under the “Flower Tent” franchise; that the tent measures thirty (30) feet by sixty (60) feet; that the company is a franchise with over ninety eight (98) tent locations; that he currently has a location within the City of Seaford; that this request is for a second location; that the hours of operation are from 10:00 a.m. to dusk, seven (7) days a week beginning in April and ending in September; that the tent is removed from the site when the season is over; that there is no electric in the tent; that there are no lights associated with the tent; that the tent meets specific requirements of the franchise and is consistent with other similar tents under the franchise; that there will be no effect

on neighboring properties; that a pet business and a utility business are located nearby; that the tent will be located approximately sixty (60) feet from the road; that the Applicant will not sell Christmas trees in the winter on the Property; that the tent will meet the required setback requirements; that there will be adequate parking available; that there is only one sign on the tent as permitted by the franchise; and that there will be no roadside signage.

Father Bob Burke, Peg Arnold, and Natalie Blakely were sworn in and testified in opposition to the Application. Father Burke testified that he is the clergyman of a church located next to the Property; that he is concerned that there is not enough parking on the Property once the tent is installed; that he is concerned that customers will park on Route 24 and that people will make dangerous U-turns in traveling to and from the Property; that five (5) years is too long for the special use exception; that he was not aware the Property was zoned Commercial; that there is a structure on the Property which is used by CHIMES but has had different uses over the years; that the previous business was usually a weekday business not open on weekends; and that the church has been a neighbor for twenty five (25) years.

Ms. Arnold testified that her three concerns are 1) congestion, 2) safety, and 3) parking.

In rebuttal, Danny Willey, testified that the existing structure will not be removed; that the franchise requires six (6) parking spaces for customers; that there are approximately sixteen (16) parking spaces available; that there will be one (1) to two (2) employees on the site; and that there will be a portable toilet on site.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Mills stated that he move that the Board recommend approval of Special Use Exception No. 11200 for a period of five (5) years for the requested special use exception based on the record made at the public hearing because the use does not substantially affect adversely the uses of adjacent and neighboring properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated and for a period of five (5) years**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Mills – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

**Case No. 11201 – John Sparacino**- northeast of Road 261 (Sweet Briar Road) west of Vivid View Drive and south of Traffic Circle, being Lot 321 within the Villages of Red Mill Pond-North.(Tax Map I.D. 3-34-4.00-410.00)

An application for a variance from the side yard setback requirement.

Ms. Thibodeau presented the case. John Sparacino was sworn in and testified requesting a variance of three (3) feet from the thirty (30) feet side yard setback requirement for a proposed sun porch; that the Planning & Zoning Department notified him the variance would not be necessary since the setback requirement for the porch is a fifteen (15) feet requirement and not a thirty (30) feet requirement; that he has attended the hearing to verify the variance is no longer necessary.

Ms. Thibodeau stated that the setback requirement from the property line on Vivid View Drive to be fifteen (15) feet and not thirty (30) feet as previously determined; that Vivid View Drive is the corner side yard, not the front yard.

Mr. Rickard stated that he would move that the Board recommend the Application fee be refunded to the Applicant for Variance Application No. 11201 based on the record made at the public hearing the variance request is no longer needed.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the variance be **denied since the variance is not necessary and that the application fee be refunded to the Applicant**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11202 – Michael Kapela & Kaleope Kapela** – south of Route 54 west of Keen-Wik Road, being Lot 14 within Keen-Wik Subdivision. (Tax Map I.D. 5-33-20.13-34.00)

An application for variances from the front yard and side yard setback requirements.

Ms. Thibodeau presented the case. Michael Kapela was sworn in and testified requesting a variance of 2.7 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of 4.2 feet from the thirty (30) feet front yard setback requirement for an existing dwelling. Mr. Kapela testified that he purchased the Property in November 2012; that the dwelling has been on the lot since at least 1970; that the Property is located within the Keen-Wik subdivision; that the setback requirements in 1970 were five (5) feet; that he obtained a building permit from Sussex County to raise the existing dwelling on its existing footprint; that the President of the Homeowners Association advised him of an issue with the setback

requirements; and that Hurricane “Sandy” caused damage to his home and created the need to raise the dwelling.

Kevin Kleinstuber was sworn in and testified in support of the Application and testified that the dwelling was damaged from the hurricane; that he raised the dwelling within the same footprint to alleviate problems from flooding; and that all additions to the dwelling were made in compliance with the setback requirements.

Mr. Kapela testified that an existing deck on the south side of the Property has been removed; that the shed has been removed; that his builder obtained the building permit; and that he added enclosed steps within the building envelope.

The Board found that two (2) parties appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11202 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The dwelling has been non-conforming for a long time and the problems with the flood make the situation unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The variances will not alter the essential character of the neighborhood since the dwelling has been on the Property for forty (40) years; and
4. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11203 – Gautamkumar I. Brahmbhatt** – south of Route 534 (Tharp Road) corner of Elm Street and being approximately 800 feet west of Road 535 (Middleford Road). (Tax Map I.D. 3-31-6.00-270.00)

An application for variances from the rear yard setback requirement.

Ms. Thibodeau presented the case. Mr. Sharp stated to the Board that he a conflict of interest and that if the Board had any questions, they should direct those questions to Vince Robertson, Esquire.

Guatamkumar Brahmbhatt was sworn in and testified requesting a variance of five (5) feet from the five (5) feet rear yard setback requirement for an existing shed and a variance of 3.7 feet from the six (6) feet rear yard setback requirement for an existing above ground pool with an attached deck. Mr. Brahmbhatt testified that he purchased the Property in 2005; that the pool, deck and a small eight (8) feet by twelve (12) feet shed existed on the Property at that time; that he added onto the existing shed and it now measures fourteen (14) feet by eighteen (18) feet; that he obtained a building permit after being notified by the Planning & Zoning Department that he needed a permit; that he believed the shed was too small to require a permit; that the addition to the shed does not further encroach into the setback any further than the existing shed; that the shed is 0.1 feet from the property line; that there will be an A-style roof on the shed when complete; that the in ground pool is located behind the dwelling; that the roof will overhand to the sides of the shed and not onto his neighbor's property; and that he is aware that his neighbor Mark Allen objects to the Application. Mr. Brahmbhatt submitted pictures to the Board.

Mark Allen was sworn in and testified in opposition to the Application. Mr. Allen testified that he owns the adjacent property to the rear of the Property; that he has tried numerous times to explain to the Applicant that the shed does not comply with the setback requirements; that he has had surveys completed to show the encroachment; that the shed now encroaches over the property line and onto his property by 0.4 feet; that the original shed was 0.1 feet from the property line so the new shed is larger; that he offered to help the Applicant build a shed that complies with the Zoning and Building Codes; that when the Applicant built the addition and enclosed the existing shed, it created a further encroachment over the property line; that the pool complies with the Zoning Code and he would like to see the deck removed since it does not comply with the Zoning Code; that there is no uniqueness to the Applicant's property; that the shed can be built in compliance with the Zoning Code because the Applicant has space on other portions of his lot; that the Applicant is disregarding the property line; and that he would want to erect a fence exceeding the height requirement to provide privacy if the deck is not removed. Mr. Allen submitted exhibits to the Board to review.

In rebuttal, Gautamkumar Brahmbhatt, stated that he purchased the Property with all the existing improvements; that the existing shed stores the pump system for the existing pool; that the pool has been on the Property since 1987 or 1993; and that he can move shed so it is not over the property line.

Ms. Thibodeau stated that the Certificates of Compliance were issued on all structures in 2009.

The Board found that no parties appeared in support of the Application.

The Board found that one (1) party appeared in opposition to the Application.



Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the case be **tabled until May 20, 2013**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

The Board recessed for ten (10) minutes.

**Case No. 11204 – Bay Twenty, LLC** – south of Route 20 (Zion Church Road) corner of Road 382A (Johnson Road) within Foxhaven Subdivision. (Tax Map I.D. 5-33-11.00-45.01 & 46.03)

An application for a special use exception for additional “temporary” ground signs.

Ms. Thibodeau presented the case. Lynn Rogers and Darlene Matthes were sworn in and testified requesting a special use exception for additional “temporary” ground signs for a subdivision. Mr. Rogers testified that the request is for seven (7) signs; that the signs are designed to help market the lots in the subdivision during this downturn in the economy; that the signs show the amenities available in the subdivision; that the signs will emphasize the “Little Fox” logo; that the signs will only be up for an eighteen (18) month time period; that the signs will not have a substantial adverse effect to the surrounding properties; that Ashley Manor was approved for a similar use by the Board; and that the signs will be removed after the eighteen (18) month time period.

Ms. Matthes testified that the sign would be double-sided.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Special Use Exception No. 11204 for the requested special use exception for a period of eighteen (18) months based on the record made at the public hearing because the use does not substantially affect adversely the uses of the adjacent and neighboring properties.

Motion by Mr. Rickard, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for a period of eighteen (18) months for the reasons stated.** Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Case No. 11205 – Joan M. Groszkowski** – south of Route 54 (Lighthouse Road) west of Tyler Avenue, 950 feet south of Lincoln Drive and being Lot 31 within Cape Windsor Subdivision. (Tax Map I.D. 5-33-20.18-77.00).

An application for a variance from the rear yard and side yard setback requirements.

Ms. Thibodeau presented the case. Joan Groszkowski was sworn in and testified requesting a variance of 4.7 feet from the twenty (20) feet rear yard setback requirement for a proposed second-floor deck, a variance of 4.8 feet from the ten (10) feet side yard setback requirement for a proposed dwelling, a variance of 6.92 feet from the ten (10) feet side yard setback requirement for a proposed HVAC unit, and a variance of 8.7 feet from the ten (10) feet side yard setback requirement for a proposed attached shower. Ms. Groszkowski testified that the Property is located within Cape Windsor; that she must replace her home due to flood damage from Hurricane “Sandy”; that the proposed dwelling must be raised to meet the requirements set forth by her insurance company; that the proposed dwelling will be the same distance from the side yard as the existing dwelling; that the roof of the screen porch will be a second level deck; that the shed has been removed; that the parking area is needed since there is no parking allowed on the street; that the parking pad on the side yard provides two (2) parking spaces; that she would lose one (1) parking space if the dwelling was moved to the north; that the dwelling is not being raised high enough to allow parking underneath; that the HVAC and attached shower will be located on the same platform; that the HVAC needs to be raised because it was submerged underwater after Hurricane “Sandy”; and that the variances will not alter the character of the neighborhood. Ms. Groszkowski submitted pictures to the Board.

The Board found that five (5) parties appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Ms. Thibodeau read one (1) letter of opposition into the record.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11205 for the requested variances based on the record made at the public hearing for the following reasons:

1. The Property is unique due to the flooding;

2. The variances are necessary to enable reasonable use of the Property;
3. The Applicant will have difficulty obtaining insurance for the dwelling with the variances;
4. The difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11206 – CMH Homes / Gil Fleming** – north of Road 402 (Blueberry Lane) approximately 2,000 feet west of Route 113 (DuPont Highway). (Tax Map I.D. 4-33-6.00-23.00)

An application for a variance from the side yard setback requirement.

Ms. Thibodeau presented the case. Gil Fleming was sworn in and testified requesting a variance of 5.1 feet from the ten (10) feet side yard setback requirement for an existing manufactured home; that a variance was granted for the Property in December 2012 for a side yard variance; that when placing the unit an error was made; that the Applicant believed that the unit could be placed 4.9 feet from the property line; that the survey completed after placement of the unit showed the encroachment; that the Property is unique in shape; that the Property is approximately forty (40) feet wider in the front than in the rear; that the existing septic system prevents the unit from being placed in a different location; that the septic system is a mound system; that the dwelling could not be rotated to fit onto the Property and comply with the Sussex County Zoning Code; that the location of the dwelling is the only place that the dwelling could be located on the Property; that the dwelling is a standard size home; that the current owner is CMH Homes; and that the sale of the Property is pending the outcome of the variance hearing.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11206 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. The variance is necessary to enable reasonable use of the Property due to the location of the existing septic system and the orientation of the dwelling;
3. The variance will not alter the essential character of the neighborhood; and

4. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11207 – Donald Dzedzy & Margaret Dzedzy** – northwest of Road 348 (Irons Lane) northwest of Seagrass Court with access thru Seagrass Plantation Lane and fronting on Indian River Bay. (Tax Map I.D. 1-34-7.00-97.00)

An application for a variance from the front yard setback requirement.

Ms. Thibodeau presented the case. Donald Dzedzy was sworn in testified requesting a variance of 8.9 feet from the thirty (30) feet front yard setback requirement for an existing stairway; that he purchased the Property in 1997; that in 2008 he was granted front, side & rear yard variances; that he hired a new contractor after problems with his original contractor; that he obtained building permits in 2011 and then realized the variance approvals had expired; that in January 2012 he was approved once again for the variances; that the previous dwelling was demolished in May 2012; that the 2012 variance approval allowed for an 8.2 feet front yard variance; that during settlement in March they discovered the stairs on the new dwelling encroach into the front yard setback area by 8.9 feet; that a temporary Certificate of Compliance has been issued on the dwelling; and that, rather than tear down the stairs, the Applicants are seeking an additional variance.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11207 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood; and
5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, and Mr. Callaway – yea.

**Case No. 11208 – Carole Rommal** – south of Route 54 (Lighthouse Road) east of Grant Avenue, 170 feet south of Lincoln Drive, being Lot 3 within Cape Windsor Subdivision. (Tax Map I.D. 5-33-20.14-29.00)

An application for a variance from the side yard setback requirement.

Ms. Thibodeau presented the case. Carole Rommal and Derek Rommal were sworn in and testified requesting a variance of 4.7 feet from the ten (10) feet side yard setback requirement for an existing HVAC unit. Carole Rommal testified that variances were granted for the proposed dwelling in December 2012; that the Planning & Zoning staff did not advise her to include the HVAC unit in her initial variance application; that Planning & Zoning Director Lawrence Lank has taken appropriate steps with Department to rectify this oversight; that the Property is unique because the lot is fifty (50) feet wide by eighty nine (89) feet deep; that the Property was originally designed for a single-wide manufactured home; that the Applicant did not create the difficulty; that no parking on the street is permitted; that the difficulty has not been created by the Applicant; that the height of the unit is to comply with flood zone regulations; and that the variance is the minimum variance to afford relief. Ms. Rommal submitted photographs to the Board.

Mr. Rommal testified that the variances are in conformity with the neighborhood; that the variance will not alter the essential character of the neighborhood; and that the height of the structure for the HVAC had to be raised due to flooding following Hurricane “Sandy”.

The Board found that four (4) parties appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

The Office of Planning & Zoning received six (6) letters in support of the Application.

Ms. Thibodeau read one (1) letter of opposition into the record.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11208 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique is shape as it is only fifty (50) feet wide;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicant;
4. The variance will not alter the essential character of the neighborhood; and

5. The variance sought is the minimum variance necessary to afford relief.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call: Mr. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Rickard – yea, and Mr. Callaway – yea.

**Meeting Adjourned 10:30 p.m.**